IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 1525 of 1999

with
LETTERS PATENT APPEAL NO. 54 OF 2000
in

SPECIAL CIVIL APPLICATIONNo 5981 of 1999

WITH
civil applications nos. 12910 of 1999 and
780 of 2000

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI
and
Hon'ble MR.JUSTICE C.K.THAKKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SATISH MAGANLAL VORA

Versus

UNION OF INDIA

Appearance:
LPA No. 15125 of 1999
MR D.S.CHANDNANI,SR.ADVOCATE WITH MR B D KARIA for Appellant

MR MUKESH R SHAH for Respondent No. 1
MR P.G.DESAI,GP WITH MR. L.R. PUJARI,AGP For Respondent No. 2, 3, 4

LPA No. No. 54 of 2000
Mr. M.R.Shah, for appellant
Mr. MR D.S.CHANDNANI,SR.COUNSEL WITH Mr.
B.D.KARIA for respondent No.1.
MR. P.G.DESAI, GP WITH MR. L.R.Pujari, AGP for State authorities
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CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI
and
MR.JUSTICE C.K.THAKKAR

Date of decision: 02/2000

CAV JUDGEMENT

Per Thakker, J:

Both these appeals arise out of an interlocutory order passed by the learned Single Judge on September 30, 1999 in SCA No. 5981 of 1999. Operative part of the said order reads as under:

"Rule. Until further orders, there shall be ad interim relief only to the effect that the coercive measures in connection with Patrex for the alleged violation of provisions of Essential Commodities Act and of the motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order, 1998 shall be confined to the goods in question and that no coercive measures shall be taken against the petitioner or his dealers."

From the above order, it is clear that ad-interim relief was granted in favour of the petitioner to the extent that respondents were restrained from taking coercive action against the petitioner and/or his dealers. Interim relief was, however, refused so far as coercive measures qua goods is concerned.

Petitioner (appellant of LPA No. 1525 of 1999) is aggrieved by that part of the order by which the learned Single Judge refused interim relief against coercive

measures to be taken against goods. Similarly, Union of India (appellant of LPA No. of 2000) is aggrieved by the interim order granted by the learned Single Judge in favour of the petitioner against taking of coercive measures against the petitioner and his dealers.

In view of the fact that in the main matter, Rule is issued and it awaits final hearing and the learned Single Judge has granted limited relief against taking of coercive measures against petitoner and his dealers, we are of the view that such discretionary power need not be interfered with at this stage. Similarly, in the light of the facts and circumstances as also considering the contentions of the authorities including Union of India , if the learned Single Judge has refused interim relief in respect of coercive measures to be taken against goods, it cannot be said that by exercising such discretion, any illegality can be said to have been committed by the learned Single Judge which requires interference in exercise of our appellate powers.

We, therefore, dismiss both LPAs. Since the main matter is pending before the learned Single Judge, we refrain from expressing opinion on merits of the matter one way or the other and as and when the main matter will be taken up for final hearing by learned Single Judge, the same will be decided on in its merits without being influenced by the order passed by us hereinabove. LPAs are accordingly dismissed. No order as to costs. No orders on civil applications.

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Learned counsel for the appellant of LPA No.1525 of 1999 requested that direction may be issued so that the main matter may be disposed of. We grant liberty to the learned cousel for the appellant to request the learned Single Judge so that the main matter can be taken up expeditiously.

(D.M.Dharmadhikari,C.J.)

25.02.2000 (C. K. Thakker, J.)

parekh